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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,486	08/25/2003	Stuart J. Ledingham	VALUENG.027FWC1	2368

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
FERGUSON, MICHAEL P	

ART UNIT	PAPER NUMBER
3679	

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/647,486	LEDINGHAM, STUART J.	
	Examiner	Art Unit	
	Michael P. Ferguson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) *16-25* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *11/28/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1-15, in Paper dated April 23, 2004 is acknowledged.

2. Claims 16-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in Paper dated April 23, 2004.

Information Disclosure Statement

3. The information disclosure statement filed November 28, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1, 2, 7-9, 13 and 14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,685,385. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the application encompass the limitations of the patent. The limitations of claims 1, 2, 7-9, 13 and 14 of the application although broader are obviously met by claims 1-3 of the patent because it is obvious that the "first fastener" of the instant claim 1 is encompassed by the "pair of spaced fasteners" of patent claims 1 and 2, that the first and second clamp sections of the patent claims constitute the first and second clamp halves, and that patent claim 3 recites the slot feature for the second clamp half as set forth in instant claim 1.

7. Claims 3-6 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,685,385 in view of Robinson (US 3,550,969).

As to claim 3, U.S. Patent No. 6,685,385 fails to claim a clamp wherein a first fastener comprises a bolt and a threaded nut.

Robinson teaches a clamp wherein a first fastener comprises a bolt **13,14** and a threaded nut; tightening of the nut on the bolt securing clamp halves **12,22** together, and securing the clamp to a rail **17** (Figures 1-3, column 3 lines 45-50).

It would have been advantageous for a clamp as disclosed by U.S. Patent No. 6,685,385 to have the first fastener constitute a bolt and a threaded nut to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail, especially when the bolt and threaded nut are conventionally known fasteners.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the clamp as claimed by U.S. Patent No. 6,685,385 to have a first fastener that comprises a bolt and a threaded nut as taught by Robinson in order to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

As to claim 4, U.S. Patent No. 6,685,385 fails to claim a clamp wherein a threaded nut comprises an axial threaded sleeve attached to the nut.

Robinson teaches a clamp wherein a threaded nut comprises an axial threaded sleeve attached to the nut (the nut comprising two portions: a threaded sleeve portion and a washer portion); tightening of the axial threaded sleeve of the nut on the bolt securing clamp halves **12,22** together, and securing the clamp to a rail **17** (Figures 1-3, column 3 lines 45-50).

It would have been advantageous for a clamp as disclosed by U.S. Patent No. 6,685,385 to have a threaded nut comprising an axial threaded sleeve attached to the nut to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the clamp as claimed by U.S. Patent No. 6,685,385 to have a threaded nut comprising an axial threaded sleeve attached to the nut as taught by Robinson in order to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

As to claim 5, U.S. Patent No. 6,685,385 fails to claim a clamp wherein a first fastener comprises a screw.

Robinson teaches a clamp wherein a first fastener comprises a screw **13,14**; the screw securing clamp halves **12,22** together, and securing the clamp to a rail **17** (Figures 1-3, column 3 lines 45-50).

It would have been advantageous for a clamp as claimed by U.S. Patent No. 6,685,385 to have the first fastener constitute a screw to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail. Especially when the screw is a conventionally know fastener.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the clamp as claimed by U.S. Patent No. 6,685,385 to have a first fastener that comprises a screw as taught by Robinson in

order to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

As to claim 6, U.S. Patent No. 6,685,385 fails to claim a clamp wherein one clamp half comprises a peg extending from a first inner surface thereof and the other clamp half comprises a hole in a second inner surface thereof to receive the peg.

Robinson teaches a clamp wherein one clamp half **22** comprises a peg (bolt **13,14** defining a peg) extending from a first inner surface thereof and the other clamp half **12** comprises a hole in a second inner surface thereof to receive the peg; the peg securing clamp halves **12,22** together, and securing the clamp to a rail **17** (Figures 1-3, column 3 lines 45-50).

It would have been advantageous for a clamp as claimed by U.S. Patent No. 6,685,385 to have one clamp half comprising a peg extending from a first inner surface thereof and the other clamp half comprising a hole in a second inner surface thereof to receive the peg to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a clamp as claimed by U.S. Patent No. 6,685,385 to have one clamp half comprising a peg extending from a first inner surface thereof and the other clamp half comprising a hole in a second inner surface thereof to receive the peg as taught by Robinson in order to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

As to claim 15, U.S. Patent No. 6,685,385 fails to claim a clamp wherein a first body comprises a pin extending in the transverse direction, and a second body comprises a hole adapted to receive the pin.

Robinson teaches a clamp wherein a first body **22** comprises a pin (bolt **13,14** defining a pin) extending in the transverse direction, and a second body **12** comprises a hole adapted to receive the pin; the pin securing clamp halves **12,22** together, and securing the clamp to a rail **17** (Figures 1-3, column 3 lines 45-50).

It would have been advantageous for a clamp as claimed by U.S. Patent No. 6,685,385 to have a first body comprising a pin extending in the transverse direction, and a second body comprising a hole adapted to receive the pin to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a clamp as claimed by U.S. Patent No. 6,685,385 to have a first body comprises a pin extending in the transverse direction, and a second body comprises a hole adapted to receive the pin as taught by Robinson in order to provide for securely fastening clamp halves together, and securely fastening the clamp to a rail.

Allowable Subject Matter

8. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 10, U.S. Patent No. 6,685,385 fails to recite a clamp comprising a nut sandwiched between first and second clamp bodies, the nut being adapted to receive a set screw, the set screw having a longitudinal axis extending perpendicular to and intersecting the common central axis of the arcuate sections.

It would not have been obvious to one having ordinary skill in the art at the time the invention was made to modify a clamp as claimed by U.S. Patent No. 6,685,385 to have the above mentioned elements as the prior art neither teaches nor suggests such modifications absent the instant application.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to clamp assemblies:

Strange (US 3,827,815) and Hunter (US 3,325,227) are cited for pertaining to clamps for receiving first and second rods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MPF
04/30/04

Daniel P Stodola

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600